

Exhibit C

February 5, 2021 Hearing Transcript

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE: . Chapter 11
CRED INC., et al, .
Debtors. . Case No. 20-12863 (JTD)
. 824 Market Street
Wilmington, Delaware 19801
. Friday, February 5, 2021
CRED INC., CRED CAPITAL, .
INC., and CRED (US) LLC, . Adv. Proc. No. 20-51006 (JTD)
vs. .
JAMES ALEXANDER. .
. .

TRANSCRIPT OF ZOOM HEARING RE: EMERGENCY MOTIONS OF THE
OFFICIAL COMMITTEE OF UNSECURED CREDITORS
BEFORE THE HONORABLE JOHN T. DORSEY
UNITED STATES BANKRUPTCY JUDGE

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(Appearances Continued)

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OF DELAWARE

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COURT DECISION

24

1 (Proceedings commence at 10:01 a.m.)

2 THE COURT: Good morning. Can everyone hear me
3 okay?

4 UNIDENTIFIED: Yes, sir.

5 THE COURT: All right. This is Judge Dorsey. We
6 are on the record in Cred, Inc., Case Number 20-51006, the
7 adversary proceeding. This is the time the Court set aside
8 for a hearing on the committee's motion to intervene in the
9 adversary proceeding and a motion for temporary restraining
10 order and preliminary injunction.

11 So let me turn it over to -- and I will tell the
12 parties I have read all of the pleadings and the
13 declarations, including the response filed by Mr. Alexander.
14 So keep that in mind when making comments.

15 Mister -- let's see. Committee's counsel, who's
16 speaking for the committee?

17 MR. EVANS: This is Joseph Evans, Your Honor, from
18 McDermott, Will & Emery, for the committee.

19 THE COURT: All right.

20 MR. EVANS: Good morning.

21 THE COURT: Go ahead, Mr. Evans.

22 MR. EVANS: Your Honor, we brought this witness
23 because our expert witness Pamela Clegg identified to
24 transactions on January 16th and January 17th, 2021, executed
25 by Mr. Alexander, in which Bitcoin that was directly

1 traceable to Cred that was in Alexander's possession was
2 transferred. That's a total U.S. Dollar amount of 1.832
3 million. And that was in violation of a California temporary
4 restraining order and preliminary injunction.

5 As Your Honor said, you've read the papers. But we
6 just received the declaration this morning -- or a response
7 this morning from Mr. Alexander, where, apparently, he agreed
8 to post certain of the cryptocurrency into escrow, where
9 we're happy about that. The response wasn't clear as to what
10 "the cryptocurrency" is. He was originally transferring 225
11 -- or 224.98993 Bitcoin and 204,557 in U.S. Dollar coin,
12 which is a one-to-one for U.S. Dollars. And so the total net
13 value now is 8.474 million.

14 So, if Mr. Alexander is intending to
15 (indiscernible) in escrow \$8.474 million worth of Bitcoin or
16 equivalent currency, then we have no issue. It wasn't clear
17 from the response if that's what his intentions are. But I'd
18 like to know what "the cryptocurrency" means when Alexander
19 is agreeing to post.

20 And I understand that they have requested more
21 briefing time for a sanctions motion. We don't have an
22 objection to that. And that's where we stand.

23 THE COURT: All right. So everybody understands,
24 on the motion for sanctions for violating the California
25 State Court's order, I don't think I have jurisdiction to do

1 that. I think that's pretty black-letter law, that I cannot
2 impose sanctions for someone violating another Court's order.
3 So I think, if you want sanctions for violating that order,
4 you're going to have to go back to the State Court to get
5 those.

6 But let me ask Mr. Pfeiffer. What is the Bitcoin
7 that you agreeing -- your client is agreeing to transfer into
8 the escrow account?

9 MR. PFEIFFER: Yes, Your Honor. Mark Pfeiffer,
10 Buchanan, Ingersoll & Rooney, on behalf of Mr. Alexander.

11 If I first may address the motion to intervene, my
12 client does -- is not opposing the motion to intervene.

13 My client is agreeing to transfer all of the Cred
14 Capital cryptocurrency under his possession or control to the
15 -- to an escrow agent, pending this matter. Right now, I
16 understand that there are 50 Bitcoin and another smaller form
17 of cryptocurrency that has fairly immaterial value, compared
18 to the Bitcoin. But my client would transfer everything that
19 he has into an escrow agent.

20 THE COURT: So the -- then he only has, you're
21 telling me, 50 of the 220 -- close to 225 Bitcoin that the
22 debtors allege is their property?

23 MR. PFEIFFER: Yes, Your Honor. Let me be
24 specific. It is my understanding that there was only 149 and
25 change, to begin with, of Bitcoin. And there is proceeds;

1 some of those Bitcoin have been liquidated and there are
2 proceeds. And it is my understanding my client is agreeable
3 to transfer the proceeds of the liquidated cryptocurrency,
4 the identifiable proceeds of the cryptocurrency liquidation,
5 into the escrow agent.

6 THE COURT: And how much is in Bitcoin and how much
7 is in liquidated form?

8 MR. PFEIFFER: So the 50 Bitcoin, there is another
9 about -- approximately \$200,000 worth of cryptocurrency. And
10 I believe there is approximately \$2.7 million in cash,
11 effectively, or proceeds.

12 THE COURT: So it sounds like we have a difference
13 as to how much Bitcoin was originally transferred and how
14 much Bitcoin was subject to the California Court's injunction
15 to not be transferred.

16 Mr. Evans?

17 MR. LUFT: Your Honor, may I be heard on behalf of
18 the debtor?

19 THE COURT: Go ahead, Mr. Luft, even though you say
20 you're Mr. Grogan on your --

21 MR. LUFT: Yeah, it looks like Me, Mr. Jimenez, and
22 Mr. Grogan all want to be Mr. Grogan this morning. I
23 apologize for that, but you -- how could you blame us?

24 Your Honor, this is shocking. I want to be very
25 clear about this. The idea that every -- first of all, there

1 was 225 pieces of Bitcoin. We have the contemporary records.
2 You've heard Mr. Inamullah's testimony about this previously
3 in the case. There were written documents indicating how
4 much was transferred to Mr. Alexander, there's documentation.
5 So this alleged 100 pieces of Bitcoin less is completely
6 unfounded. And we can provide all the documentation the
7 Court needs for how much it is.

8 So, quite simply, putting aside the fact that, as
9 Your Honor pointed out, Mr. Alexander was not a director of
10 Cred Capital, even under his scenario, he has stolen the
11 funds. There is no scenario where a director gets to take
12 personal funds of a corporation, put them in their own
13 pocket, and spend them. So, starting from day one, he has
14 acted improperly and taken it.

15 Moreover, before the California Court -- and we
16 litigated this -- at no point did Mr. Alexander ever say to
17 that Court, Your Honor, we're having a whole TRO hearing
18 about this amount of -- this 225 Bitcoin, I don't have that
19 much, I got rid of it, it's not in the account that we're
20 filing orders for. He has been dishonest with that Court.

21 And now we're standing before you. He went before
22 the Chancery Court -- excuse me -- before we get to you.
23 Again, he filed this motion, again, never once said I no
24 longer control these assets.

25 And then we had a whole hearing on Wednesday, where

1 I know he sat here in front of you, Your Honor, and never
2 once said, by the way, when Mr. Pfeiffer said this will all
3 get resolved and whatever else, you should all know I don't
4 hold those assets, right? Instead, what we have gotten is
5 serial lawsuits from him, trying at every turn to fight this.

6 And I -- Your Honor should be aware he filed a new
7 lawsuit in California just the other day, purportedly against
8 Mr. Schatt, but clearly against Cred, asking for the same
9 relief Mr. Pfeiffer was in front of you the other saying,
10 saying please find that I am a proper holder of these assets.
11 Well, now I know why: Because he spent them all or sent them
12 somewhere. So when he says he only has 50, that means he's
13 either spent it on something, given it away. Either way,
14 it's malfeasance.

15 To sit there and come to this Court today and say,
16 oh, I'll stick it in escrow is outrageous. First of all, it
17 just -- escrow is gone, Your Honor. He should turn it over
18 to the debtor. There's no -- he doesn't even dispute that
19 they're Cred Capital's assets. And then, to sit there and
20 say, well, I only know where 50 is, I would ask that he file
21 something today setting forth every single transfer, where it
22 is, who -- what it was for, and to whom, so that we can take
23 immediate steps with the committee to try to recover what is
24 literally millions of dollars of lost assets for the estate.

25 I cannot stress how surprised I am to find out -- I

1 knew he took it. But the idea that he did actually -- he'd
2 go through all this and never once mention that this thing
3 we've been fighting over for months is -- are assets that
4 don't even exist anymore in his possession is highly
5 disingenuous, including his filing, to be honest, and not put
6 that in there. I'm just shocked.

7 But I do ask, Your Honor, please, make him tell us
8 today where it is, so we can try to find these funds.

9 THE COURT: Well, let me hear --

10 MR. EVANS: Your Honor --

11 THE COURT: Go ahead, Mr. Evans.

12 MR. EVANS: No, I think the time frame is important
13 here. You know, on July 16th, 2020, there was an order from
14 the California Court, and it precluded Alexander from
15 transferring, transmitting, using, depositing, or permitting
16 anyone else to transfer, transmit, or use any Cred and/or
17 Cred Capital digital assets in his possession, custody,
18 and/or control. That was July 16th, 2020.

19 And what we have here, Judge, is we have Alexander
20 not even appearing here today, despite the fact that he was
21 here on Wednesday, not even being available to us to cross-
22 examine or ask questions, even though we asked counsel
23 numerous times yesterday to have their client available to
24 us.

25 He's telling us today, oh, I only have 50 Bitcoin

1 left. This isn't something that was spent on Cred Capital
2 expenses, this isn't something that was a business expense
3 that may or may not have been done. These were transferred
4 on January 16th and January 17th of this year, two weeks ago.
5 Pamela Clegg is here to testify, and perhaps we don't need
6 her to explain anything, but this was in her declaration,
7 Docket Number 8, which was filed in this case, and these were
8 her conclusions:

9 "For the reason discussed in detail below, it is my
10 professional opinion that:

11 "(A) On January 16th, 2021, Alexander transferred
12 50 Bitcoin that is directly traceable to Cred;

13 "(B) On January 17th, 2021, Alexander transferred
14 50 Bitcoin that is directly traceable to Cred."

15 These are expert conclusions, and Alexander's
16 response is nothing. Okay, I'll put it in escrow now, I only
17 have 50 left. And that's not good enough, Judge.

18 We have \$8.74 million worth of crypto that has been
19 put in his possession. We have violations of the court
20 order, which are clear, and violations two weeks ago. And
21 this isn't some unwilling or unknowing participant. He's
22 represented by competent counsel, he's engaged in litigation
23 (indiscernible) stayed, but he's engaged in litigation in
24 California, here. He's been actively answering adversary
25 proceedings here, standing up in court, showing up. And two

1 weeks ago, he was secretly taking money. And the only reason
2 we had it is because we have a cryptocurrency tracing expert
3 that's tracking this stuff, right?

4 So I really don't understand where they come out on
5 this thing. I mean, 8.74 million doesn't just disappear.
6 There's no dispute, 225 Bitcoin he received. On July 16th,
7 he's got a court order saying you can't move it. Two weeks
8 ago, 3.74 million of it gets trans -- or 1.74 million of it
9 gets transferred -- ah, sorry -- 3.664 million is the right
10 number. Two weeks ago, that disappeared. And now he's
11 saying, I don't know where it is, I don't have it, right?

12 And the tracing here, when you look at it and you
13 look at the expert report we submitted, it's not that
14 complicated. There's five or six transactions, and they're
15 all him, and the expert concluded they're all him.

16 And so I don't know where we go from here, Judge.
17 But I agree with the debtors' counsel, there needs to be an
18 accounting and a full explanation of each of these
19 transactions. There's only six or seven of them, Judge. And
20 it's shocking to us, just like it's shocking to the debtor,
21 that one of the former executives of the company would be
22 engaged in these litigations, represented by competent
23 counsel, you know, participate at a bankruptcy hearing, and
24 then just two weeks ago, right under our noses, steal \$3.664
25 million with no explanation.

1 I mean, he was accused of, effectively, stealing
2 this money. And his response is, okay, well, I know the 100
3 that I just spent, you caught me, but the 50 that I still
4 have, okay, I'll put that in escrow, right? It's simply not
5 good enough, Judge.

6 And just, when we're talking about this motion and
7 we're talking about likelihood of success and the ability to
8 win the -- the ability to win this case (indiscernible) his
9 whole defense was that, oh, this was Cred Capital's assets
10 and Cred Capital wasn't appropriately -- couldn't have
11 appropriately filed for bankruptcy because, somehow,
12 Alexander was the only person that could authorize Cred
13 Capital to file for bankruptcy. Well, Your Honor ruled on
14 Wednesday, that theory doesn't have -- hold any water.

15 So that's why we don't really know what his defense
16 could possibly be at this point. And we need to get the 50
17 Bitcoin he says he has in his possession, get the whatever
18 2.7 million in cash he says he has in his possession, the
19 200,000 USD, and we need to know what happened with each of
20 these transactions.

21 MR. PFEIFFER: Your Honor, may I respond?

22 THE COURT: Go ahead, Mr. Pfeiffer.

23 MR. PFEIFFER: Yes, very briefly.

24 What we're agreeing to is transferring to the
25 escrow agent everything we have. I understand that Bitcoin

1 were liquidated and converted to cash. The identifiable cash
2 proceeds -- which I believe is a bulk, if not all of what
3 we're talking about -- will go to the escrow agent. I know
4 of very little, if any, that was spent out of those funds.
5 It is my understanding that at least the bulk of those funds
6 that resulted from the liquidation are there. We will
7 transfer those to the escrow agent.

8 We will provide them with information as to what
9 these transactions were, what happened with the cash. We are
10 effectively saying to the Court that everything we have will
11 go to the escrow agent. We will be cooperative because we
12 understand the implications of the Court's order on
13 Wednesday. We are going to put what we have into the escrow.
14 We're good with that.

15 MR. EVANS: Your Honor --

16 MR. LUFT: Your Honor --

17 MR. PFEIFFER: May I just --

18 THE COURT: Hold on.

19 MR. EVANS: (Indiscernible)

20 THE COURT: Wait a minute, wait a minute.

21 Mr. Pfeiffer, were you done?

22 MR. PFEIFFER: No. As far as the allegation that
23 my client is filing complaints in California, that's not my
24 understanding. My understanding was there's a pending matter
25 between my client and Mr. Schatt in California, and my client

1 filed an amendment to the complaint --

2 THE COURT: He filed a --

3 MR. PFEIFFER: -- against mister --

4 THE COURT: He filed a second amended complaint,
5 actually. I've looked --

6 MR. PFEIFFER: Yeah.

7 THE COURT: -- at it.

8 MR. PFEIFFER: Yeah, against Mr. Schatt. He hasn't
9 started a new lawsuit.

10 And it's also my understanding -- and I have
11 California counsel here on the line, who can confirm; he's
12 not admitted before this Court. But it is my understanding
13 that there was never actually a signed injunction order in
14 California. So that's an issue that may or may not become
15 relevant at some point in time.

16 But the bottom line is, for today, we're agreeing
17 to hand over everything we have to the escrow agent, Judge.

18 MR. LUFT: Your Honor --

19 MR. PFEIFFER: Your Honor, one question.

20 THE COURT: Hold on. One at a time here. Go
21 ahead, Mr. Evans.

22 MR. EVANS: Mr. Pfeiffer says that his client
23 Alexander has \$2.7 million in cash proceeds from the
24 liquidation of Bitcoin, that's what he says. On January 16th
25 and January 17th, there was a transfer of 100 Bitcoin. The

1 market value of that 100 Bitcoin is \$3.8 million. If, two
2 weeks ago, 100 Bitcoin was sent to who knows where, but
3 apparently another 1.1 just disappeared, right? So these
4 numbers don't make any sense.

5 And the question as to whether there was an order
6 from the California Court, I mean, it's in our papers. On
7 July 17th, 2020, there was a temporary restraining order
8 issued by the Court; in August, there was a preliminary
9 injunction that extended that temporary restraining order to
10 the conclusion of the proceedings. So I don't know what the
11 ambiguity is here, but we have two court orders that clearly
12 preclude Mr. Alexander from transferring Cred Capital.

13 His counsel is now conceding that the
14 cryptocurrency that he received, they're saying is Cred
15 Capital property. But the violation of the order -- and our
16 expert is here to testify, saying these January 16th and
17 January 17th transactions are directly traceable to Cred. So
18 that's where we are, Judge.

19 And you know, at this point, the funds just got to
20 be transferred to the debtor. I mean, we're -- they just got
21 to be transferred to us now. There's really no reason and no
22 harm -- or there's no reason to allow Alexander to hold onto
23 this, so he can get the benefit of an escrow agent. His
24 conduct here is egregious, Judge.

25 MR. LUFT: Your Honor --

1 MR. PFEIFFER: Your Honor, may I respond?

2 MR. LUFT: If I may?

3 THE COURT: Well, let me hear from Mr. Luft first,
4 he wanted to say something.

5 MR. LUFT: Yes, thank you, Your Honor.

6 Your Honor, it looks as though Your Honor has seen
7 the second amended complaint.

8 THE COURT: I have, yes.

9 MR. LUFT: If you look at the first -- what's the
10 first action he wants, he wants a declaration that he's a
11 director of Cred Capital. Now I don't know why an action
12 against Mr. Schatt could do that. But the fact is he's
13 asking for the exact same relief they came to the other day.
14 And in fact, if you look at all the causes of action, they
15 are all related to the idea that he is a director of Cred
16 Capital.

17 So this notion that they are not violating the stay
18 because they keep just naming Mr. Schatt, as opposed to the
19 necessary party of Cred and Cred Capital -- which has been
20 pointed out to them previously by these courts -- it's --
21 there's no question that that's what they're doing. They're
22 trying an end run.

23 Moreover, Your Honor, I will note that the Court
24 that filed the injunction, that case has been removed to the
25 Bankruptcy Court in the Northern District of California, and

1 is in the process of being transferred to yourself. So we
2 hope, very quickly, this will all be in front of you, in
3 terms of the injunction, and you can see it.

4 The only other thing I'd like to just touch on
5 really quickly is, you know, we have had all this litigation
6 going on. As I pointed out, none of these facts have ever
7 come up. In all of the papers that he's filed, he's never
8 said the money is not there or, more importantly, that's he
9 liquidated. They act as though that's not a big deal, well,
10 we just changed it from crypto to dollars. Your Honor, he
11 has no authority do to that.

12 And that decision, by itself, as Mr. Evans has
13 alluded to, has cost the estate millions of dollars. When
14 one looks at the value of crypto since he stole it from the
15 company until today, it's astounding how much he's done. The
16 only thing that gives me -- makes sense is, well, he did the
17 same thing when he was working for Cred. That's how they
18 lost a lot of money in the first place, he made those
19 decisions. But that -- the idea that he's not responsible
20 and liable for the additional funds that he lost by his
21 unauthorized actions to, I guess, take some of the crypt -- a
22 bunch of the crypto and change it into dollars, he's liable
23 for that, as well.

24 And I go back to what the committee sought, which
25 is not just the depositing (indiscernible) there needs to be

1 an action, an injunction put up for his other assets. He
2 needs to make good on all this and needs to know where it is.
3 He's created an astonishing track record that he does not do
4 right when left to his own devices. Even with a court order,
5 he has -- seems to have no problem violating it.

6 So I do ask today that, not only does he give all
7 the funds that he has to the debtor, but to the extent there
8 is a shortfall in that amount, he has to post the personal
9 collateral to the Court, so that we can have some basis to be
10 sure that we will get the funds.

11 There is no dispute at issue anymore. He was not
12 the Director of Cred Capital, he did not have authority to do
13 this. And at this point, Your Honor, we are literally in
14 just a free fall, trying to see how much of the assets that
15 he stole can we recover. Starting today, please help us make
16 that happen.

17 THE COURT: Mr. Pfeiffer, I will point out that, if
18 -- well, we now know that he did, Mr. Alexander did transfer
19 funds during the pendency of this bankruptcy case, funds that
20 were assets of the debtors. Isn't that a violation of the
21 automatic stay, and can't I sanction your client for
22 violating the automatic stay?

23 MR. PFEIFFER: Your Honor, I don't know the
24 particular facts and the circumstances are not -- that
25 transfer, are not before the Court or were -- haven't been

1 presented to the Court.

2 I can tell you that it is my understanding that
3 recent transfers have very good explanations and -- related
4 to pandemic-related issues that I would prefer not to divulge
5 at the moment because they involve personal health issues.
6 But if a holder of Bitcoin or crypto becomes incapacitated or
7 were to become deceased, if it is in a particular type of
8 account, that person -- nobody could actually (indiscernible)
9 or get that crypto without the right password.

10 My client experienced some issues related to the
11 pandemic, where he had to make sure that, if he were to
12 become deceased, that crypto would be available to other
13 parties, including potentially the debtor. So there is an
14 explanation for it. And I'm being purposely oblique because
15 it involves some personal health issues with regard to my
16 client that I would prefer not to disclose in open court, but
17 I will provide the information to the debtor. I've already
18 disclosed some of the information to the debtor concerning
19 that situation.

20 But there's more to it than, you know, simple
21 transfers of assets post-bankruptcy. And he didn't transfer
22 any assets to a third party, effectively transferred them to
23 himself, he retained control. So I'm not sure that is a
24 violation of the automatic stay.

25 And the recent Chicago Parking Authority case would

1 indicate that merely holding onto them, the assets
2 themselves, post-petition would not be a violation of the
3 automatic stay.

4 MR. EVANS: Your Honor, this is Joe Evans from the
5 committee.

6 First of all, Mr. Pfeiffer just said that Alexander
7 still has and is in possession of the Bitcoin that was
8 transferred on January 16th and January 17th. That's 150
9 Bitcoin. And now he's saying, okay, I can only post 50
10 Bitcoin into escrow. That doesn't make any sense, Judge.

11 And this last-second, COVID-related excuse, you
12 know, this is -- you can't just come to court and say, well,
13 I took money, but okay, it might have something to do with
14 COVID, I don't want to tell anybody what it is, but I
15 shouldn't be held responsible. We've been in contact with
16 counsel for Alexander for months. They didn't contact us and
17 say, hey, here's this issue, we have a privacy issue, we want
18 to make sure that the assets are secure. They didn't say
19 that.

20 Only when we caught them, and we caught a hundred-
21 Bitcoin transfer on January 16th and January 17th, they file
22 a declaration that says nothing about this so-called "excuse"
23 for why they transferred the money. And then they come to
24 court and, after hearing oral argument, they say, well,
25 actually, it's a COVID issue, Judge, actually, maybe it's a

1 COVID issue and we needed to be secure. If you want the
2 funds to be secure, if that's the goal, place them with the
3 debtor, who's hired professionals to make sure that all the
4 cryptocurrency is safe and protected and for the benefit of
5 the estate.

6 You know, I -- we can't respond to this oblique
7 reference to COVID-related issue, and that's why the client
8 transferred \$3.4 million a couple of weeks ago, it just
9 doesn't make any sense.

10 And you know what, Judge? Alexander was here two
11 days ago. He was at the hearing two days ago, he showed up.
12 And then, once we showed him that we know that he transferred
13 this Bitcoin two weeks ago, where is he today? We asked
14 counsel numerous times is Alexander going to be here, is
15 Alexander going to be here. We put him on our witness list,
16 to ask him these questions, and he's not here. And he sends
17 counsel here to say, okay, maybe it's a health issue, maybe
18 that's why. But these sorts of excuses, they just don't
19 work. These are millions and millions and millions of
20 dollars of other people's money.

21 THE COURT: Well --

22 MR. PFEIFFER: Your Honor --

23 THE COURT: -- I agree, it is time for Mr.
24 Alexander to start answering some difficult questions and do
25 so in a way that gives the parties and the Court the ability

1 to understand what's going on here. So I'm trying to figure
2 out how to fashion a remedy here.

3 Certainly, I'm going to enter an injunction, a TRO
4 and a preliminary injunction, ordering Mr. Alexander to turn
5 over whatever he says he has to the debtors.

6 No need for an escrow, at this point because I
7 think the -- having determined that Mr. Alexander was not the
8 Director of Cred Capital when those funds were transferred, I
9 don't think there's any question that he owns those funds.
10 They belong to the debtors and I think they need to be turned
11 over to the debtors without an escrow.

12 And we need to get answers from Mr. Alexander. So
13 one of two ways to do this: One, I order him to submit a
14 declaration by sometime today that lays out exactly what he
15 has, when he got it, how he got it, where it was transferred
16 to, how it was liquidated, where the liquidated funds are
17 located; or I order him to sit for a deposition and let the
18 parties examine him about those issues.

19 Let me open it up to debtors and the committee to
20 see which you would prefer.

21 MR. LUFT: Your Honor, speaking on behalf of the
22 debtors, what I would ask -- I think, if I could take one
23 from Column A and one from Column B, I think what we need,
24 given the level of duplicity with Mr. Alexander, is I'd like
25 him to submit that declaration today, setting forth exactly

1 where it is. And then, to the extent that we have any
2 questions with regard (indiscernible) --

3 THE COURT: You're --

4 MR. LUFT: -- that declaration --

5 THE COURT: You're freezing up a little bit, Mr.
6 Luft. I'm not sure what's happening, but now you're
7 completely frozen.

8 MR. PFEIFFER: Your Honor, Mark Pfeiffer.

9 I think I know what he's saying, and I don't
10 necessarily disagree. But if you'd like a declaration
11 submitted by --

12 MR. LUFT: (Indiscernible)

13 MR. PFEIFFER: -- by today --

14 MR. LUFT: There seems to be --

15 THE COURT: Oh, wait a minute. Mr. Luft --

16 MR. LUFT: Your Honor?

17 THE COURT: -- I think you're back. You froze up
18 there and we couldn't hear --

19 MR. LUFT: Oh.

20 THE COURT: -- what you're saying.

21 MR. LUFT: Sorry. I'm sure it was something
22 brilliant. But in short, what I'd ask for, Your Honor, is
23 that mister -- given his level of duplicity, that he submit
24 that declaration today, setting out everything you just
25 explained. And then, if there's any questions -- which I

1 think there will be, given that his lawyer has said today
2 that he claims to have only got almost 100 million less
3 Bitcoin than all of our records show -- that we then
4 immediately sit for a deposition, once we've had a chance to
5 look at it, to follow up on.

6 I think we need both, to be honest. But the
7 starting point, I think, would be a clear declaration with at
8 least what he says -- where he says all this money is, so
9 that we can look at that, try to use our resources to
10 evaluate it, and then ask the followup questions that are
11 necessary. I don't -- unfortunately, I don't have any faith
12 that we can just take him at his word, nor do I think it's
13 reasonable to assume that we can begin to just question him
14 without that type of foundational discovery of what it --
15 where he at least says they are.

16 MR. EVANS: Your Honor, this is --

17 THE COURT: Go ahead, Mr. Evans.

18 MR. EVANS: From the committee, there's a couple of
19 things that we would like.

20 First of all, we agree with you, Judge, that all of
21 the -- all of the cryptocurrency, the proceeds of the
22 cryptocurrency that are held by Alexander, those should be
23 posted and given to the debtor immediately. And I gather,
24 from doing a quick calculation of what Mr. Pfeiffer was
25 saying, the value of that is approximately \$4.732 million,

1 based on current market prices. I think that's about right.
2 It might be a little -- it might be a little higher than
3 that.

4 This case, this transfer case, is for \$8.74 million
5 in Bitcoin. Okay? So there's going to be a shortfall,
6 according to what Mr. Pfeiffer says Alexander currently has
7 in his possession, versus what the recovery for the estate is
8 under the adversary action. So we would ask that, in
9 addition to the providing of the debtors' assets to the
10 debtor, the shortfall, the difference between the value of
11 the adversary action versus what he's able to post, to be
12 placed in escrow, pending the outcome of the adversary
13 action.

14 Mr. Pfeiffer has indicated that his client is
15 liquidating Bitcoin and turning it into cash, executing a
16 transaction, using it for personal reasons, whether their
17 healthcare-related or otherwise. The only way to ensure that
18 the estate will actually recover these funds, if we are
19 successful -- and we do believe we'll be successfully,
20 especially given the fact that Alexander's only defense to
21 the turnover actions is that these weren't debtor -- these
22 weren't estate assets because Cred Capital couldn't have
23 filed for bankruptcy without his consent. And so that
24 defense is gone.

25 And so the only way to protect the estate here,

1 Judge, is to have the Cred cryptocurrency and the proceeds
2 transferred to the debtor immediately and to have the
3 shortfall be posted in escrow by Mr. Alexander.

4 MR. PFEIFFER: Your Honor, may I address that?

5 THE COURT: Go ahead, Mr. Pfeiffer.

6 MR. PFEIFFER: Yes, Your Honor. As far as the
7 crypto go, it's in my client's best interest and everybody's
8 clients' best interests to get that transferred and out of my
9 client's hands as soon as possible because it poses a
10 security issue, both from a personal perspective for my
11 client and to the crypto itself, now that this has been
12 fairly widely publicized and people know that my client has
13 crypto. We will transfer that, we will work with the debtor
14 to transfer that as soon as possible.

15 I understand Mr. Luft's position about the
16 declaration, and I understand that the Court ordered the
17 declaration. I have no qualms with that.

18 I understand Mr. Luft's position that he would like
19 to provide -- or depose my client. If I may suggest that,
20 because there are security issues with regard to the crypto,
21 that the declaration be provided, not publicly, but to both
22 Mr. Luft and the committee, so they know what it is. And if
23 they choose to file it publicly, they can; or, if they ask me
24 to file it publicly, they can -- we can. But I don't think
25 everybody wants the entire world to know where these assets

1 are, at the moment, until they are secured by the debtor.

2 THE COURT: Well, I assume the -- correct me if I'm
3 wrong. But I'm assuming whatever crypto he has could be
4 transferred immediately, without -- with just a few
5 keystrokes of the keyboard. Am I incorrect about that?

6 UNIDENTIFIED: That's correct, Your Honor.

7 THE COURT: All right. So --

8 MR. PFEIFFER: That is my understanding, Your
9 Honor. I've never had a Bitcoin or a crypto case before, but
10 that's my understanding.

11 THE COURT: All right. So I'm going to order him
12 to immediately, within the next 30 minutes after this hearing
13 is over, transfer that Bitcoin to the debtors.

14 Now the cash that he has, I'm assuming that is in a
15 bank account somewhere. Is that right?

16 MR. PFEIFFER: I assume that to be the case. I
17 don't know for certain, Your Honor.

18 THE COURT: All right. And that can be transferred
19 through a wire transfer to the debtors' account fairly
20 quickly, so I will order that to be done, as well, by the end
21 of the day today, whatever cash that he has that he alleges
22 or that he admits is the proceeds of the cryptocurrency which
23 was taken from Cred Capital.

24 I will also order him, by the end of the day today
25 -- we'll say, actually, by -- if I was going to give a

1 deposition, Mr. Evans and Mr. Luft, would you want to take it
2 today or over the weekend or Monday?

3 MR. LUFT: Your Honor, I think it depends if we're
4 going to see a declaration or not. If we're going to see the
5 declaration, I'd have -- I'd like to have a chance to read it
6 and review it first. If we're not going to get such a
7 declaration, then I guess I would confer with Mr. Evans. I
8 personally have a deposition for three hours this afternoon,
9 but I'd be happy to sit down after that and talk to Mr.
10 Alexander then, but --

11 THE COURT: Well, let's --

12 MR. EVANS: Your Honor --

13 THE COURT: There will be a declaration because I'm
14 going to order him to provide one.

15 MR. LUFT: Terrific.

16 THE COURT: That will be -- I'm just trying to
17 figure out the timing of it, when I should have him do that.
18 It's --

19 MR. LUFT: If I could suggest, Your Honor, it can -
20 - whatever time it makes sense for you, I think, given Ms.
21 Clegg's involvement, and I think that there will probably be
22 questions about where this stuff went, maybe a deposition --
23 unless Mr. Evans disagrees -- on Monday then, so we have the
24 weekend -- if he can provide the details today, we have a
25 weekend to look at it -- or I'll defer to Ms. Clegg and Mr.

1 Evans how much time it would take to evaluate his responses.
2 But if that would be quick enough, then I do think time is of
3 the essence, so ...

4 THE COURT: All right. So we'll -- I'll order the
5 declaration to be submitted by 4 p.m. today.

6 MR. LUFT: Thank you, Your Honor.

7 THE COURT: It will be provided to the committee
8 and debtors' counsel. I would also like to see it, I'd like
9 it submitted to chambers, so I can review it, as well.

10 And then, if the debtors and the committee request
11 a deposition, Mr. Alexander will sit for that deposition at
12 the committee and the debtors' time, whatever time of their
13 choosing.

14 MR. LUFT: Thank you, Your Honor.

15 THE COURT: I also think it's important that we get
16 some expedited discovery, document discovery, what happened
17 to these assets, where they went, how they were transferred.
18 Anything that Mr. Alexander has in writing also needs to be
19 produced on an expedited basis.

20 Mr. Pfeiffer, how quickly can your client get those
21 materials together and produced?

22 MR. PFEIFFER: Your Honor, I had your sound cut out
23 in the last 15 seconds.

24 THE COURT: I'm sorry. You're fading out, too, Mr.
25 Pfeiffer. I can barely hear you.

1 MR. PFEIFFER: I'm sorry. How about now?

2 THE COURT: That's a little better, but still bad.

3 I was saying that I want expedited discovery, document
4 discovery from Mr. Alexander, as well. So I was asking you
5 how quickly Mr. Alexander can pull together all documents
6 relating to the Bitcoin, its transfer, its liquidation, and
7 provide that to the debtors and the committee on an expedited
8 basis. How much time do you need?

9 MR. PFEIFFER: Probably more time than the Court is
10 willing to give. But you know, we will provide it before
11 Monday --

12 THE COURT: All right.

13 MR. PFEIFFER: (Indiscernible)

14 THE COURT: By Monday then, it should be provided.

15 I also think it might be important to have Ms.
16 Clegg involved in this, so that she can provide some guidance
17 to the parties and to me on transfers and how they happen and
18 so forth. So I'd like her to be involved in this. I --
19 sorry if I'm messing up your weekend, Ms. Clegg, but I think
20 it's important that you be involved in this, so I have some
21 independent expert that can give me some guidance on how all
22 of this played out.

23 MR. PFEIFFER: Your Honor --

24 MS. CLEGG: I'm available, Your Honor.

25 THE COURT: Thank you.

1 I'm sorry. Someone --

2 MR. PFEIFFER: Your Honor --

3 THE COURT: -- else was --

4 MR. PFEIFFER: Yes, it's Mark Pfeiffer. And I'm
5 sorry, your audio cut out again when you were talking about
6 the timing of the production of documents.

7 THE COURT: You had said you could get them by
8 Monday, so --

9 MR. PFEIFFER: Uh-huh.

10 THE COURT: -- I was saying, yes, get them by
11 Monday.

12 MR. PFEIFFER: And Your Honor, just so I know, so
13 that we make sure that we comply with the Court's order, the
14 declaration will be regarding the location of the
15 cryptocurrency and what happened to it and the proceeds,
16 effectively. Is that correct?

17 THE COURT: That's correct. He should also address
18 the differences between the 225 Bitcoin that Ms. Clegg has
19 been able to trace, that was transferred from Cred Capital to
20 Mr. Alexander, and his assertion that he only took possession
21 of 150 Bitcoin. I want to know, well, how -- what's the
22 basis for that distinct difference between the two.

23 MR. PFEIFFER: And Your Honor, with regard to the
24 scope of the deposition, would it be, I'm assuming, similar
25 to the declaration?

1 THE COURT: Yes, exactly.

2 MR. EVANS: Your Honor, this is Joe Evans from the
3 committee.

4 One thing, just to clarify, in the declaration, for
5 each of these transactions, we want an explanation as to the
6 reason behind each of these transactions. If 150 Bitcoin is
7 what Mr. Alexander had, it appears, on July 17, when the
8 Court entered the temporary restraining order, but before
9 that, 75 Bitcoin had dissipated. And so we want an
10 explanation of each transaction that relates back to the
11 crypto that Cred provided Mr. Alexander. So that's one.

12 The -- two -- the second thing is, according to Mr.
13 Pfeiffer (indiscernible) 50 Bitcoin. And what's not clear to
14 me is he also said that there was 100 Bitcoin that was
15 transferred, but it was effectively transferred back to
16 Alexander, transferred to an account he controls for security
17 purposes, I suppose. And so he should be transferring 150
18 Bitcoin to the debtor today in 30 minutes, not just 50.

19 THE COURT: Well, he's going to --

20 MR. EVANS: And so I don't know where the
21 disconnect --

22 THE COURT: He's going to transfer whatever Bitcoin
23 he has that's related to what was transferred to him from
24 Cred Capital and provide an explanation for why there's a
25 difference between what he alleges is the amount that was

1 transferred to him and the amount that the debtor says was
2 transferred to him. And he should also provide an
3 explanation for each of the transfers subsequent to the
4 initial transfer of all the Bitcoin, as well as an
5 explanation for why he liquidated the Bitcoin and where that
6 money is located.

7 MR. LUFT: Your Honor --

8 MR. EVANS: Thank you, Your Honor.

9 And then the one last -- apologies. The one last
10 thing is, if Mr. Pfeiffer is correct and there are 50
11 Bitcoin, 200,000 in (indiscernible) coin and about 2.7
12 million in cash, that adds up to about \$4.6 million. Judge,
13 there's still 3.8 of additional funds that are the subject of
14 this adversary action.

15 And so, given Mr. Alexander's conduct to date and
16 the risk to the estate of not recovering those proceeds, we'd
17 ask that Mr. Alexander be asked to post in escrow, pending
18 the resolution of the adversary action, the remainder, the
19 3.8 million about that is the difference between the Cred
20 assets he claims are still under the control and the Cred
21 assets that he originally received.

22 THE COURT: Well, I think requiring a prejudgment
23 attachment of assets is premature, at this point, until I
24 have a better understanding of what happened, how it
25 happened, and where the money is and how much is involved

1 here. And I would want further briefing on that issue. I
2 think that is a -- that's a big ask, to ask me to impose a
3 prejudgment attachment against somebody. It doesn't happen
4 very often, it rarely happens in Delaware for sure. So I'd
5 like further briefing on that issue before I took that next
6 step.

7 MR. LUFT: Your Honor, if I may? Just I hope this
8 would be clear that it should be covered, but given this
9 (indiscernible) secrecy in crypto, I would hope that mister -
10 - we need Mr. Alexander, in that declaration, to say who he
11 transferred the funds to, not just some anonymous account, if
12 he knows. Presumably, he is sending money to people, he knew
13 -- he knows where it is. We need names, so that we can
14 contact those people. So I'd ask that to be included, as
15 well, and not to say that it's confidential and whatever else
16 they're going to say.

17 The second thing I would just note is, in addition
18 to the crypto that he took, he still holds a computer and a
19 phone that presumably holds Cred information on them, as well
20 as other -- I think it's called "coin," "U.S. Coin," or some
21 other forms of currency. We have been talking about the
22 Bitcoin, but I don't see any distinction as to why he should
23 not turn over everything he has in his possession that he
24 took from Cred Capital.

25 THE COURT: Well, on the first one, I agree, and

1 that's what I expected, that he would -- when he's describing
2 the transfers, he's describing who the funds were -- or who
3 the Bitcoin or who the funds were transferred to and where
4 they're currently residing, so -- and not just some anonymous
5 account number. He has to provide full disclosure here.

6 On the second issue, remind me what it was. I'm
7 sorry, I lost track.

8 MR. LUFT: Quite all right. The turnover -- we --
9 at issue in the turnover action is -- we --

10 THE COURT: Okay. The computer --

11 MR. LUFT: -- (indiscernible)

12 THE COURT: -- and the other items.

13 MR. LUFT: (Indiscernible) whatever --

14 THE COURT: Mr. Pfeiffer, does your client still
15 have the computer and the phone that was provided by the
16 debtors to Mr. Alexander?

17 MR. PFEIFFER: I think there are about four or five
18 pieces of equipment listed in the complaint. I don't think
19 my client had one of those to begin with. I believe he has
20 the others.

21 With regard to the computer, which is the main
22 issue, I think, is -- he hasn't opened up or used that
23 computer since being terminated because it was the protocol
24 of Cred to wipe computers, you know, as soon as they're
25 powered up, following termination. So, you know, it's just

1 sitting there. I can talk to my client about getting it to
2 the debtor in some way, shape, or form.

3 MR. LUFT: It's not just the computer, though, Your
4 Honor.

5 MR. PFEIFFER: Whatever equipment it is.

6 THE COURT: Whatever equipment he has that was
7 proved to him by the debtors should be turned over as soon as
8 possible.

9 Where is Mr. Alexander located, physically?

10 MR. PFEIFFER: California, Your Honor.

11 THE COURT: And where are you located, Mr.
12 Pfeiffer? I'm sorry.

13 MR. PFEIFFER: I'm in Philadelphia.

14 THE COURT: And Mr. Alexander has counsel in
15 California, you mentioned Mr. Pfeiffer, who's actually on the
16 call today?

17 MR. PFEIFFER: Yes, Mr. Thomas Reichert, who is on
18 the call right now and on the screen.

19 THE COURT: Okay. Then I would order Mr. Alexander
20 to turn those items over to Mr. Reichert for safekeeping
21 immediately.

22 MR. EVANS: Your Honor, this is Joe Evans for the
23 committee.

24 And I understand Your Honor's point about the
25 prejudgment order of attachment, how you'd like more

1 briefing. In the interim, before you can make a decision,
2 what we would like to do and what we'd request is that there
3 be a restriction on Alexander's transfer of what he claims is
4 his personal Bitcoin or personal assets. We anticipate that
5 what we're going to receive is, well, this Bitcoin was mine,
6 this wasn't Cred Capital's, this Bitcoin was mine, it wasn't
7 Cred Capital's. And so, until we can sort all that out,
8 Judge, we'd ask for a restriction on Alexander's transfer of
9 his cryptocurrency and other assets.

10 Mr. Pfeiffer said that the assets were liquidated
11 and some of the Bitcoin was liquidated, and Ms. Clegg is very
12 good (indiscernible) this stuff, but we're going to need to
13 understand what his position in certain of these items. And
14 just to protect the estate, pending the determination of the
15 prejudgment attachment, we'd ask that there be an injunction
16 on Mr. Alexander for making transfers over a certain dollar
17 amount, maybe \$1,000, \$2,000, something like that.

18 THE COURT: Well --

19 MR. PFEIFFER: Your Honor --

20 THE COURT: -- that's --

21 MR. PFEIFFER: -- that --

22 THE COURT: That's kind of like a prejudgment
23 attachment. But go ahead, Mr. Pfeiffer.

24 MR. PFEIFFER: I was going to say that's the same
25 thing, and that poses constitutional issues.

1 THE COURT: Yeah. Yeah, I'm not prepared to do
2 that at this time. But I do expect that Mr. Alexander will
3 disclose -- and I'm going to order expedited discovery on all
4 of his personal assets, so that we know how much Bitcoin he
5 holds that he believes is his personal property, including
6 his -- and cash.

7 I'm going to open it up. I'm going to let the
8 committee and the debtors submit written requests for
9 production and, if you want, interrogatories to Mr. Alexander
10 regarding his personal assets. And I would expect that that
11 be done on an expedited basis, not 30 days, as allowed by the
12 rules. I would expect that could be done within a week or 10
13 days.

14 MR. EVANS: Your Honor, for the committee, we can
15 get these -- we can get these requests out either this
16 evening or first thing tomorrow. And we'd ask that the
17 responses be submitted by no later than Wednesday.

18 THE COURT: I'm sorry. When did you say you would
19 get them out, Mr. Evans, today?

20 MR. EVANS: We can get them out today or tomorrow
21 morning, but we'd ask the responses be Wednesday.

22 THE COURT: All right. I'll say the responses are
23 due Wednesday. But Mr. Pfeiffer, if there -- something comes
24 up that makes that difficult to reach, I would ask that the
25 parties contact the Court and we'll have a status conference

1 over the telephone, and we'll see if you need some additional
2 time.

3 MR. PFEIFFER: Thank you, Your Honor.

4 MR. CARTY: Your Honor, Andrew Carty from Brown
5 Rudnick on behalf of the examiner. May I be heard very
6 briefly?

7 THE COURT: Go ahead, Mr. Carty.

8 MR. CARTY: I understand that there's going to be,
9 you know, some information being provided. I think some or
10 all of it is going to be provided under seal, and we would
11 just like to be involved in that process and provided with --
12 if there's a declaration, if there's depositions, if there's
13 document discovery, we would like to be afforded the
14 opportunity to participate in that process.

15 THE COURT: Absolutely.

16 MR. PFEIFFER: No objection, Your Honor.

17 THE COURT: Yeah, absolutely.

18 MR. CARTY: Thank you, Your Honor.

19 THE COURT: Absolutely. Yes.

20 Well, I'm not sure how to formulate one order.
21 I've ordered a lot of things today. So I think what I'm
22 going to do is so order the transcript with all of my rulings
23 today. And Mr. Luft, if you want to submit a form of order
24 that just says -- incorporates my rulings on the record
25 today. You don't have to do them specifically; just say the

1 Court held a hearing today, made numerous rulings on the
2 record relating to various issues and, for the reasons stated
3 on the record, the record is so ordered. And I think that
4 will -- we'll have to go with that because it will be
5 impossible to try to put together a comprehensive order on
6 this on a short period of time, especially since you have a
7 deposition this afternoon.

8 MR. LUFT: Thank you, Your Honor. That is,
9 honestly, very helpful.

10 THE COURT: All right.

11 MR. EVANS: And Judge, this is Joe Evans for the
12 committee.

13 And the two items that we were come back to you
14 with briefing on were the sanctions item and the -- sanctions
15 related to a violation of the automatic stay and, also, the
16 prejudgment order of attachment. We'd just like to confer
17 with Mr. Pfeiffer on that and come back to you with a
18 proposed briefing schedule. I think some of the information
19 we're going to get over the next few days might be pretty
20 helpful for those motions, so --

21 THE COURT: Yes, that's fine.

22 MR. EVANS: -- we'd ask for that.

23 THE COURT: That's fine, yeah.

24 All right. I also -- I guess I am going to grant
25 the motion to intervene. We forgot about that one. So you

1 can -- Mr. Evans, you can -- I think we have the form of
2 order that was attached to your motion.

3 But Mr. McMahon raised his hand. Mr. McMahon, do
4 you have an issue about the intervention?

5 MR. MCMAHON: No, Your Honor. I -- jumping in.
6 And my apologies, I was monitoring the hearing. We have the
7 same interest in the information that the examiner does, so
8 we just ask that we be included with respect to
9 communications regarding the declaration, the deposition, and
10 the like.

11 THE COURT: Yes, absolutely. Absolutely.

12 So, going back to the motion to intervene, I'll
13 enter the order that was submitted by the committee with your
14 motion, we'll get that entered today.

15 MR. EVANS: Thank you, Your Honor.

16 THE COURT: All right. And I think that's all we
17 had for today, right? That was enough. It's a lot.

18 MR. EVANS: Nothing more from the committee.

19 THE COURT: All right.

20 MR. EVANS: Thank you.

21 MR. LUFT: Thank you, Your Honor.

22 THE COURT: All right. Thank you, everybody. I'll
23 say "have a good weekend," but I have a feeling some people
24 aren't going to that are on the phone today. So we're
25 adjourned. Thank you.

1 COUNSEL: Thank you, Your Honor. Thank you, Your
2 Honor. Same to you.

3 (Proceedings concluded at 10:55 a.m.)

4 *****

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter to the best of my knowledge and ability.

A handwritten signature in cursive script, appearing to read "Coleen Rand", is written over a horizontal line.

February 5, 2021

Coleen Rand, AAERT Cert. No. 341

Certified Court Transcriptionist

For Reliable